

CAUSE NO. _____

LIVINGSTON EMENYI

v.

U.S. BANK, N.A. AND
A&R TEXAS PROPERTIES LLC

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IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

_____ JUDICIAL DISTRICT

STATE OF TEXAS

COUNTY OF DALLAS

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KNOW ALL MEN BY THESE PRESENTS:

AFFIDAVIT OF LIVINGSTON EMENYI

BEFORE ME, the undersigned authority, on this day personally appeared Livingston Emenyi who, being duly sworn, deposes and says:

1. "My name is Livingston Emenyi. I am the Plaintiff in the above-captioned lawsuit. I have read the Plaintiff's Original Petition, Application for Injunctive Relief, and Request for Disclosures to which this Affidavit relates and offer this Affidavit in support of the statements and arguments asserted therein.
7. The subject matter of the lawsuit is the real property and the improvements thereon located at 249 Westbury Drive, Coppell, TX 75019 (the "Property").
8. My wife Roseline A. Emenyi and I purchased the Property on or about June 21, 2011. During the process of purchasing the Property, I executed a Note ("Note") in the amount of \$245,000.00 as well as a Deed of Trust ("Deed of Trust") in which U.S. Bank, N.A. (U.S. Bank) is listed as the Lender.
10. I began to have financial difficulties in August 2017. Realizing that I may soon become in default on my mortgage payments, I entered into debt restructuring negotiations with U.S. Bank in order to modify the terms and conditions of my loan.
11. I was offered a loan modification by U.S. Bank during October 2017. I submitted a complete loan modification application as well as all the required documents by facsimile on October 29, 2017 - this was my first loan modification application. I called U.S. Bank on November 1, 2017 to verify that the application had been received. A U.S. Bank representative confirmed receipt, that the application was complete, and informed me that a U.S. Bank supervisor would promptly review my loan modification application.
12. I immediately expressed my concern regarding the Notice of Acceleration and Notice of Substitute Trustee's Sale I received on October 14, 2017 - which was the first notice I received regarding any type of default of my mortgage. The U.S. Bank representative assured me that the deadline to submit all loss mitigation applications was November 3, 2017 in order to prevent the November 7, 2017 foreclosure sale. Therefore, because I submitted a complete loan modification

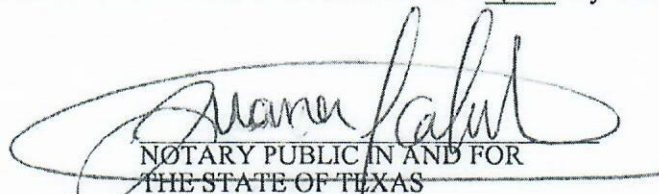
application on October 29, 2017, U.S. Bank was required to review my loan modification application, accept or deny the application, and allow a 30 day period for me to appeal that decision (if it was denied) before U.S. Bank could foreclose on my Property. Further, the U.S. Bank representative stated that she was memorializing the conversation in her notes and contemporaneously drafting an agreement to that effect which would be signed by her supervisor and mailed to me - I continue to await that agreement and an answer as to acceptance or denial of my loan modification application.

13. I was also receiving offers from investors to purchase my Property - a short sale. U.S. Bank had informed me that a short sale of the Property was another option to prevent the foreclosure sale of my Property as long as the required documentation was submitted prior to November 3, 2017. As the circumstances progressed, I decided that the more options I created for myself to save my home and/or remain out of foreclosure, the safer I was. I began negotiations with one of the investment companies pursuing my Property, Christian Consultants of Texas, LLC ("Christian Consultants"). Christian Consultants and myself agreed on a price, filled out all the documents necessary for the short sale, and sent the required documents by facsimile to U.S. Bank on October 29, 2017 at 11:45 p.m. for approval. I called U.S. Bank on October 30, 2017 and a U.S. Bank representative confirmed receipt of the documents.
14. Christian Consultants and myself contacted U.S. Bank multiple times between October 30, 2017 and November 6, 2017 requesting U.S. Bank to send the required documents to complete the short sale but U.S. Bank refused to cooperate.
15. On November 6, 2017, I spoke with a U.S. Bank representative, Crystal Young ("Young"), and her supervisor, Sana Rankin ("Rankin"), who assured me that Rankin was personally working on approving my loan modification application, that it would be approved by the end of the day, and Rankin would cancel the foreclosure sale upon approval. Accordingly, I contacted the Trustee responsible for conducting the foreclosure of the Property, William G. Malcolm ("Malcolm"), on November 7, 2017 to confirm that the Property had been pulled from the foreclosure sale but I was informed that U.S. Bank had not sent any such notice to Malcolm.
16. Despite U.S. Bank's assurances to me that they would not foreclose on my Property while I was in loan modification status as well as the contract that was in place for a short sale of the Property, U.S. Bank conducted a foreclosure sale of my Property on November 7, 2017. A&R Texas Properties LLC purchased the Property at the foreclosure sale and initiated eviction proceedings against me the case styled Cause No. JE17-02849A; A&R Texas Properties LLC v. Roseline A. Emenyi and Livingston Emenyi; In the Justice Court of Dallas County, Texas - Precinct 3, Place 1 - scheduled to be heard on December 8, 2017 at 10:00 a.m.
17. Further, U.S. Bank violated my due process rights by selling my Property at a foreclosure sale on November 7, 2017 without sending me proper and timely notice of default, the opportunity to cure the default, and notice of intent to accelerate the debt prior to the foreclosure sale as required by the Texas Property Code.

I have read the foregoing Affidavit and attest that the information contained therein is true and correct in all respects based upon my personal knowledge.


LIVINGSTON EMENYI

SUBSCRIBED AND SWORN TO BEFORE ME on this the 6th day of December, 2017.


NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
My commission expires:
07-06-20

